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C O N F I D E N T I A L SECTION 01 OF 02 TOKYO 006250

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SUBJECT: SECOND CHANCE PROGRAMS AND THE LABOR MOBILITY
AGENDA

REF: TOKYO 5903

Classified By: Ambassador Schieffer for reasons 1.5 b/d.

Summary

1. (C) Current efforts to foster Japanese labor mobility are centered around two pieces of legislation: a new Labor Contracts Law and a revised Labor Standards Law. A key Ministry of Health, Labor, and Welfare (MHLW) advisory committee is preparing both laws for submission to the regular 2007 Diet session, but a summer breakdown in negotiations complicated preparatory work. Nonetheless, MHLW and Cabinet Office officials are maintaining the goal of a 2007 submission, perhaps because of the Abe administration's efforts to address social disparity issues through its "second chance" agenda prior to the next summer's Upper House elections. End summary.

Labor Mobility Agenda

2. (SBU) The American Chamber of Commerce in Japan (AC CJ), through its Labor Mobility Task Force, has identified increasing the flexibility of the Japanese labor market as necessary to allow companies to accommodate recent trends toward more diversified life and work styles, as well as to increase efficiency by better aligning pay and performance. The Embassy has worked closely with the business community in efforts to foster labor mobility, viewing the current rigidities in the system as barriers to the greater investment and economic integration envisioned under the Economic Partnership for Growth.

3. (SBU) Over the past year, U.S. business and the Embassy have focused on three key labor mobility objectives: 1) raising the tax deductible contribution limit on defined contribution pensions; 2) introducing monetary settlements in disputed dismissals (in lieu of reinstating workers who have won their legal cases, the only current legal option); and 3) seeking the introduction of a "white-collar exemption" that would replace the current limited categories of supervisory and managerial officials who are exempt from the overtime

provisions of the Labor Standards Law. Legislation covering all three issues is currently under review.

Background: Labor Mobility Legislation

14. (SBU) Defined contribution pensions were established under a 2001 law which mandated a review after five years, for which a Ministry of Health, Labor, and Welfare (MHLW) study group met for the first time on October 10. According to newspaper reporting, the study group will consider raising the cap on tax-deductible contributions, allowing employees to contribute to the funds, and increasing the options for transferring funds when switching jobs. The study group's recommendations are due in 2007 and could be implemented as early as 2008.

15. (SBU) Introduction of monetary settlements in disputed dismissals and the creation of a white-collar exemption would be covered respectively under a new Labor Contracts Law and a revised Labor Standards Law. Legislative changes for both laws are being hammered out in an MHLW advisory committee with the goal of submitting the legislation to the regular 2007 Diet session.

Negotiations Delayed on Contracts and Standards Laws

16. (SBU) Progress on both bills was delayed, however, when committee negotiations broke down in June. According to press reports and an industry contact who sits on the committee, labor and employer representatives walked away from the meetings after MHLW abandoned its facilitator role and pushed its own detailed plan, which included white-collar exemption provisions that labor representatives disliked and

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new reporting and vacation requirements that business representatives found overly burdensome. Formal meetings only resumed in August after significant behind-the-scenes coaxing from a new, senior MHLW official.

17. (SBU) Despite the delay, MHLW and Cabinet Office officials told Econoff that they intend to submit both pieces of legislation to the regular 2007 Diet session. Committee members, however, have not been able to meet weekly since the August resumption of discussions (as MHLW requested to make up lost time). In addition, industry contacts report that the labor and employer representatives, while agreeing on the need for new legislation, remain entrenched in their positions. Our contact on the committee has speculated that MHLW, in order to meet its public commitment to introduce the legislation, may put forward a bill with as few as ten articles -- far fewer provisions than what had been envisioned for the new Labor Contracts Law.

Second Chance Provisions Another Factor

18. (SBU) Prime Minister Abe's interest in "second chance" legislation may further complicate efforts to update labor legislation. As detailed reftel, then Chief Cabinet Secretary Abe's inter-ministerial committee on efforts to

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give part-time and non-regular workers a second chance to succeed in Japanese society made its initial program recommendations -- many of them to be implemented by MHLW -- at the end of May, just before MHLW's more assertive role in the advisory committee prompted the breakdown in negotiations. Moreover, a Cabinet Office contact told Econoff in October that the inter-ministerial committee had planned to use the new Labor Contracts Law to implement "second chance" programs.

19. (SBU) Although not specifically labeled as "second chance" initiatives in committee discussions, MHLW is working to include provisions on the treatment of "dispatch" (temporary) and part-time workers into the new Labor Contract

Law, according to our industry contact on the advisory committee. The provisions would, for example, obligate employers to hire non-regular workers who had worked under contract for more than a year, or whose short-term contracts had been renewed three times or more. According to our contact, MHLW has also announced that starting in 2007 it will increase audits of agencies providing "dispatch" workers to enhance compliance with ministry guidelines that promote the movement of dispatch workers into the ranks of the regularly employed.

Comment

¶10. (C) As detailed reftel, the Abe administration is pushing for "second chance" legislation in the 2007 Diet session as a way to blunt opposition criticism regarding rising social disparities prior to next year's local and Upper House elections. Given that even our more policy-oriented Cabinet Office contacts are focusing on the politics, rather than the substance, of the "second chance" agenda, we are concerned that a rush to submit labor legislation could result in stripped-down bills going to the Diet, thereby shutting off the primary avenue for fostering real labor mobility in Japan. Against that possibility, we believe the most productive tactic will be to continue to work with U.S. business in advocating for specific improvements in labor mobility, while framing our proposals within, rather than in opposition to, the national conversation on "second chance" initiatives.

SCHIEFFER